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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,424	02/07/2001	Joseph C.H. Park	03226.037001; P5009	6879
32615	7590	09/22/2004	EXAMINER	
OSHA & MAY L.L.P./SUN 1221 MCKINNEY, SUITE 2800 HOUSTON, TX 77010			VU, TUAN A	
			ART UNIT	PAPER NUMBER
			2124	

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/778,424

Applicant(s)

PARK, JOSEPH C.H.

Examiner

Tuan A Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,10,12-15 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,10,12-15 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. This action is responsive to the Applicant's response filed 6/29/2004.

As indicated in Applicant's response, claims 2,7-9,11,16, 18-23 have been canceled, and claims 1, 10, 17 amended. Claims 1, 3-6, 10, 12-15, and 17 are pending in the office action.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-4, 6, 10, 12-13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Intel® IA-64 "Architecture Software Developer's Manual", Jan. 2000 (IA-64), in view of Hwu et al., "A Framework for Balancing Control Flow and Predication", Proc. 30th Annual IEEE/ACM Intl. Symposium on Microarchitecture, Dec. 1997, pp. 92-103, <http://citeseer.ist.psu.edu/august97framework.html> (hereinafter Hwu); further in view of Chen, USPN: 6,637,026 ( hereinafter Chen).

**As per claim 1**, IA-64 discloses an extensible rule-based technique for optimizing predicated code comprising:

if-converting an abstract internal representation (e.g. §10.2.3.1, pg. 10-3 to pg. 10-

4 – Note: analysis of instruction sequence by a compiler for branch prediction

optimization implicitly discloses analysis of internal representation of program code);

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transforming the if-conversion to a machine representation (e.g. *assembler* - §10.2.3.1, pg. 10-3,4 );

optimizing the machine representation based on a combination of a predetermined cover analysis (§10.2.1.2, pg. 10-2 ) and a predetermined replacement pattern such that a redundant instruction in the machine representation is eliminated (§10.2.3.1, pg. 10-3,4; §10.2.4, pg. 10-6->10-8 – Note: algorithmic case analysis for removing of extraneous cycles is equivalent to replacement pattern for eliminating redundant execution, e.g. branch instructions that would be otherwise not taken).

But IA-64 does not disclose that the above transformation includes eliminating predicates from the if-conversion representation, although IA-64 suggests not to use predicates under some conditions when applying the if-conversion/predication analysis (e.g. §10.2.4, pgs. 10-6-8). Hwu, in a method using hyperblock analysis to institute if-conversion analogous to the if-converting optimization by IA-64, also discloses the pitfalls of using predication when hardware resources, interference or repeated use of same resources and scheduling time frame are becoming a prohibitive factor (pg. 93, left col, line 5 to pg. 95, left col.), and ways to un-execute predication settings (associated with hyperblock analysis during the if-conversion) by applying the partial reverse if-conversion when the code to execute from the if-conversion is not desirable, or that hyperblock control flow lead to penalties (e.g. pg. 96, right col. to pg. 97, left col. ). It would have been obvious for one of ordinary skill in the art at the time the invention was made to apply the prevent execution of predicate instructions during if-conversion as analyzed and performed by Hwu and apply it to the proposed considerations by IA-64 for

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the reasons both mentioned by Hwu and IA-64 which are worsening the delay and resource usage during scheduling and execution of predicated code.

Hwu, however, does not explicitly disclose eliminating of predicates execution from the optimized conversion representation. In a method to optimize code using predication analogous to IA-64, Chen discloses potential resources, e.g. registers allocation, conflicts when setting up predicates in the code similar to the resources contention as mentioned by Hwu, and further discloses setting up virtual or redundant register mapping predicate based on which to validate or eliminate the execution of the intended predicate statement which can be oftentimes redundant (e.g. col. 1, lines 28-30; col. 2, line 35 to col. 3, line 56). It would have been obvious for one of ordinary skill in the art at the time the invention was made to apply the algorithmic approach to reverse the if-conversion as approached by Hwu (see above; pg. 99, Fig. 8) and additionally add the virtual statement code checking to establish as to whether a predicate execution is to be taken or eliminated as taught by Chen in order to enhance the teachings by IA-64 because of the same reasons causes as suggested by IA-64, or the interference effects by Hwu; and because this would expediently resolve register allocation conflicts due to predicate being competing for a same resource or redundantly based on same condition (see Chen: Background of invention).

**As per claim 3**, IA-64 does not expressly disclose eliminating a predicate defining instruction by interpretation; but Hwu, in a method using hyperblock analysis to institute if-conversion analogous to the if-converting optimization by IA-64, also discloses the pitfalls of using predication (re claim 1) and suggest ways to un-execute predication settings (associated with hyperblock analysis during the if-conversion) by

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applying the partial reverse if-conversion when the code to execute from the if-conversion is not desirable, as in the case where hyperblock control flow lead to penalties (e.g. pg. 96, right col. to pg. 97, left col. ); while Chen teaches eliminating of predicate execution when register allocation validating is checked as false ( re claim 1). In view of IA-64 and the combined teaching of Hwu and Chen, the idea of optimizing at run-time is suggested, i.e. optimizing about exactly before runtime by many compilers ( e.g. JIT) was strongly suggested by the architecture taught by IA-64. Further, official notice is taken that one method to alleviate runtime resource is to use interpretation of code when just-in-time optimization would have been useful any further was a known-concept in the art of runtime optimization, e.g. the well-known JIT compiler and Java optimizing virtual machine, at the time the invention was made. Hence, in case when the execution environment is having the interpretation capabilities of a optimizing JIT as mentioned above, it would have been obvious for one of ordinary skill in the art at the time the invention was made to implement the interpretation of code as a substitute for predicate in addition to the reverse if-conversion as suggested by Hwu or to the virtual predicate checking by Chen ( in combination with IA-64) to avert unsafe use of resources due to predicate execution or compilation late optimization. One of ordinary skill in the art would be motivated to do this because, when the code to translate is a language which can be used by an just-in-time interpreter as mentioned above, enabling interpretation of code after if-converting as suggested by Hwu or after filtering of unjustified predicates as by Chen (in combination with IA-64) does not further complicate compilation resources when every possible optimization process would have been exhausted and that only size-simplified, branch-free and fault-free instructions are left to execute just as evidenced in

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the teachings from the notice from above and in conjunction with the analysis and decision making in Hwu's algorithm for reverse if-converting hyperblocks ( see Hwu: pg. 97-100).

As per claim 4, IA-64 does not specify eliminating a guard predicate of a safe instruction by speculation but discloses using both speculation and predication ( e.g. § 2.6, pg. 2-4 to pg. 2-5; § 8.4-5, pg. 8-4 to pg. 8-6 ); and discloses how using predication can be inappropriate when overlapping memory resources are identified ( re claim 1). Hwu, as in claim 3, further discloses applying an analysis to ensure that a predication is resolved and free of penalty ( resources, cycle count, interaction, dangling latencies - pg. 97-100) by applying a reverse if-conversion to optimize resource usage at scheduling time; and Chen discloses predicate-checking provision to control register conflicts when resolving resource safe aspects of a predicate statement execution ( re claim 1). Official notice is taken that using speculation when it is determined that a code is free of ambiguous control flow or data dependency as suggested by IA-64 was a known-concept at the time the invention was made. Hence, in view of the above notice and suggested teachings by IA-64, Hwu and Chen, it would have been obvious for one of ordinary skill in the art at the time the invention was made to implement the speculation of code to substitute for some predicated execution as suggested by Hwu ( in combination with IA-64) to avert unsafe predicate execution when it is determined that there is no ambiguous dependency of control or data flow as taught by Official notice from above and by Hwu's techniques. One of ordinary skill in the art would be motivated to do this because enabling speculation of code after the predicates resources dependency analysis as suggested by Hwu's correct scheduling (in combination with IA-64/Official notice)

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further alleviates execution resources from correctly predicting of data/control flow just as intended by the optimization proposed by IA-64 ( combined with Hwu's teachings), notably when predicate implementation tends to increase size of code (re IA-64 – pg. 10-6 to pg. 10-8).

**As per claim 6**, IA-64 does not disclose using reverse if-conversion but this limitation would have been obvious in view of IA-64's teachings about the pitfalls in predication ( re claim 1) and the rationale using Hwu's partial reverse if-conversion method and using Chen's elimination of redundant, register-unallocated or unjustified predicates based on some checking.

**As per claim 10**, this apparatus claim corresponds to claim 1 and is rejected with the rejection as set forth therein.

**As per claims 12, 13, and 15**, these claims correspond to claims 3, 4, 6 respectively, and are rejected with the rejections as set forth therein.

4. Claims 5, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Intel® IA-64 "Architecture Software Developer's Manual", Jan. 2000 (IA-64), in view of Hwu et al., "A Framework for Balancing Control Flow and Predication", 1997, and Chen, USPN: 6,637,026; as applied to claim 1 (for claim 5), 10 ( for claim 14) above, and further in view of Schlansker et al., USPN: 5,999,738( hereinafter Schlansker).

**As per claim 5**, IA-64 ( combined with Hwu/Chen) does not disclose eliminating a guarding predicate of an unsafe instruction by compensation. IA-64 and Hwu, as in claim 3, discloses using analysis to determine resources dependency, cycle counts and interdependent scheduling ( re claim 3-4) for averting using of penalty-prone or inefficient predicate-guarded block of instructions; while Chen discloses eliminating of a



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predicates execution based upon resolving resource allocation by means of redundant/virtual validation predicates ( re claim 1). Schlansker, in a method to selectively execute fully or partially resolved predications analogous to the partial reverse if-conversion by Hwu or register mapping by Chen, discloses compensation code to stand for predicate code when the latter undergoes resolution as to whether it can fall-through or not ( Fig. 10); hence has suggested substituting predicate instruction in case such predicate result in non fall-through resolution. Hence, it would have been obvious for one of ordinary skill in the art at the time the invention was made to implement the use of compensation code to substitute for some predicate guard resolution leading to unsafe code as suggested by Hwu/Chen ( in combination with IA-64) to avert unsafe predicate execution when it is determined that there potential unresolved predicated control flow can result in a penalty as taught by Schlansker. One of ordinary skill in the art would be motivated to do this because enabling compensation code to cover for predicate ill-selected paths as suggested by Schlansker's provision further alleviates execution resources from having to remedy for mispredicted path or paths resulting in wrong direction as originally intended by the optimization proposed by IA-64 ( combined with Chen/Hwu's teachings), notably when predicate implementation tends to increase size of code (re IA-64 – pg. 10-6 to pg. 10-8).

**As per claim 14**, this claim corresponds to claim 5, and is rejected with the rejection as set forth therein.

**As per claim 17**, IA-64 discloses an extensible rule-based technique for optimizing predicated code comprising

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if-converting an abstract internal representation (e.g. §10.2.3.1, pg. 10-3 to pg. 10-4); transforming the if-conversion to a machine representation (e.g. *assembler* - §10.2.3.1, pg. 10-3,4 ); eliminating of predicates from mapped if-conversion (e.g. §10.2.4, pgs.10-6-8); and

optimizing the machine representation based on a combination of a predetermined cover analysis (§10.2.1.2, pg. 10-2 ) and a predetermined replacement pattern such that a redundant instruction in the machine representation is eliminated (§10.2.3.1, pg. 10-3,4; §10.2.4, pg. 10-6->10-8 – Note: algorithmic case analysis for removing of extraneous cycles is equivalent to replacement pattern for eliminating redundant execution, e.g. branch instructions that would be otherwise not taken).

But IA-64 does not disclose that the transformation includes eliminating predicates from the if-conversion representation. But this limitation has been addressed in claim 1.

Nor does IA-64 expressly disclose eliminating a predicate by interpretation as recited in claim 3, by speculation as recited in claim 4, by compensation as recited in claim 5, by reverse if-conversion as recited in claim 6; but these limitations have been addressed with the corresponding rejections as set forth therein, respectively.

### ***Response to Arguments***

5. Applicant's arguments filed 6/29/04 have been fully considered but they either moot in view of the new grounds of rejection or are not persuasive. Following are the reasons therefor.

(A) As per claim 1, Applicant has submitted that IA-64 merely discloses predication that enables optimizations allowing removing branches from sequences; and fails to show

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or suggest the amended claim limitations ( Appl. Rmrks, pg. 7, top para). The new grounds of rejection now points to how IA-64 suggests resources prohibiting factors in using predicates, and how the same approach to resolve competition of resources when predicates are used can be enhanced by Hwu, and how such same resources issues can be further lead to elimination of predicate execution as taught by Chen. A *prima facie* case has been establishing in the rejection which is now putting forth the grounds from which one of ordinary skill in the art can combine teachings from the above references and what benefits can be effected as a result of such combining.

(B) As per claims 3, 4, 6, 12, 13 and 5, 14, 17, Applicant has submitted that Hwu and Schlansker in combination with IA-64 have failed to show the required limitations as a results of claim 1 or 10 ( Appl. Rmrks, pg. 7, bottom, pg. 8, top). But these arguments do not amount to any points worth replying to because Applicant's arguments fail to comply with 37 CFR 1.111(b), i.e. they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Therefore, the claims will stand rejected as set forth in the rejection.

### *Conclusion*

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A Vu whose telephone number is (703)305-7207.

The examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703)305-9662.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9306 ( for formal communications intended for entry)

**or:** (703) 746-8734 ( for informal or draft communications, please consult

Examiner before using this number)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA. , 22202. 4<sup>th</sup> Floor( Receptionist).

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VAT

September 13, 2004

  
ANIL KHATRI  
PRIMARY EXAMINER